

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

EDDIE SPURLOCK,

Plaintiff,

v.

RAM LEATHER CARE,

Defendant.

No. 4:08CV1197 MLM

MEMORANDUM AND ORDER

This matter is before the Court upon the application of plaintiff to commence this action without payment of the required filing fee. Upon consideration of the financial information provided with the application, the undersigned finds that the applicant is financially unable to pay any portion of the filing fee. However, after a review of the complaint and corresponding documentation, the Court will not order the Clerk to issue process on the complaint at this time.

Plaintiff brings this action pursuant to Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e et seq., as well as the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., alleging in a conclusory manner that he was harassed and discriminated against on the basis of his disability and his race.

The Court has reviewed the complaint and the corresponding documentation and believes that although plaintiff may be able to assert claims of discrimination and/or harassment, the complaint as currently pleaded fails to state a claim for relief. Plaintiff has not enumerated the exact acts he believes were perpetrated by defendant which were done with discriminatory motive, nor has plaintiff identified behaviors condoned by defendant which amount to a legally hostile work environment/harassment. Additionally, although plaintiff has included with his complaint a copy of his charge of discrimination, he has not included with his filings a copy of his notice of right to sue. Plaintiff must provide the Court with a copy of his right to sue so that the Court may ascertain the timeliness of his allegations.

Taking into consideration the fact that the plaintiff is proceeding pro se and in forma pauperis, the Court will grant him time to file an amended complaint in accordance with the instructions set forth below. Moreover, because the Court is allowing plaintiff to amend his complaint, it will take no action as to plaintiff's claims at this time.

Plaintiff is reminded that his amended complaint will supersede his original complaint and will be the only complaint the Court reviews. Thus, plaintiff must include in the "Caption" of the amended complaint, all of the defendants he wishes

to sue, and in the “Statement of Claim,” he must set out specific facts against each enumerated defendant corresponding to each of his claims for relief. Plaintiff must also provide the Court with a copy of his notice of right to sue. Plaintiff risks dismissal of the complaint if he fails to comply with this Court’s instructions.

Accordingly,

IT IS HEREBY ORDERED that plaintiff’s motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to be issued upon the complaint at this time.

IT IS FURTHER ORDERED that plaintiff shall file an amended complaint within thirty (30) days of the date of this Order. In the amended complaint, plaintiff shall complete in its entirety the court-provided form for filing an employment discrimination complaint. Specifically, in the “Caption” of the form complaint, plaintiff shall set forth the name of each defendant he wishes to sue, and in the “Statement of Claim,” he must set out specific facts against each named defendant corresponding to each of his claims for relief. Plaintiff is also required to submit, as an attachment to his amended complaint, a copy of his notice of right to sue.

IT IS FURTHER ORDERED that the Clerk shall mail to plaintiff, in addition to a copy of his Memorandum and Order, the court-provided form for filing an employment discrimination complaint.

IT IS FURTHER ORDERED that plaintiff's failure to amend his complaint in accordance with this Court's instructions will result in a dismissal of this action, without prejudice.

IT IS FURTHER ORDERED that upon the filing of the amended complaint, the Clerk shall resubmit this action to the Court for review pursuant to 28 U.S.C. § 1915(e).

Dated this 4th Day of September, 2008.


MARY ANN L. MEDLER
UNITED STATES MAGISTRATE JUDGE